

**Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

)	
In the Matter of)	MM Docket 99-25

)	
The Mitre LPFM Technical Report)	DA 03-2277
)	

**COMMENTS OF
MIDWEST CHRISTIAN MEDIA, INC.
AND
THREE SISTERS WIRELESS, INC.**

1. Midwest Christian Media, Inc., provides consulting services to nine organizations in Eastern Missouri. These organizations are attempting to obtain construction permits for Low Power FM (LPFM) radio stations.
2. Three Sisters Wireless, Inc. applied for a LPFM construction permit. The city of license would have been Chesterfield, Missouri. The application was dismissed because of supposed interference their proposed station would cause to an existing full power station by being on its 3rd adjacent channel. The station would have qualified for a construction permit based on the Federal Communication Commission's (FCC) regulations before Congress' imposed changes.¹
3. This document contains the combined comments of these organizations.

¹ This is the type of problem referenced in future mentions of 3rd adjacent channels in these comments.

THE MITRE REPORT

4. The Mitre Report has been read. We believe that the basic conclusion of the report, “. . . that LPFM stations can be operated on third-adjacent channels with respect to existing ‘Full Power’ FM (FPFM) stations provided that relatively modest distance separations are maintained between any LPFM station and receivers tuned to the potentially affected FPFM station,”² is correct.

5. The Mitre Report generally agrees with previous studies done by the FCC and by The National Lawyers Guild Committee on Democratic Communications.

RESTITUTION

6. The Commission will remember that it went through a formal rule making process and determined that it was in the public interest that LPFM stations be allowed on 3rd adjacent channels. Then Congress was successfully lobbied to reverse the FCC’s regulations by disallowing LPFM stations on 3rd adjacent channels. There may be indications that lobbyists misled Congress.

7. One such indication is that the results of the Mitre Report essentially agree with the studies done by the Commission and the National Lawyers Guild Committee on Democratic Communications. All three studies would allow LPFM stations on 3rd adjacent channels. The results disagree with the positions of the lobbyists.

² *Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations*, Mitre Technical Report, May 2003, Volume One: Final Report, page xxvi.

8. A second possible indication is the claim by JT Communications that the National Association of Broadcasters' recording used by the lobbyists was falsified. JT Communications has offered an affidavit to that effect for Commission review.³ Whether or not JT Communication's affidavit is convincing, the Commission needs to review the recording and provide the results to Congress.

9. The Government of Columbia Appropriations Act, FY 2001,⁴ does not provide for the suspension of the Religious Freedom Restoration Act (RFRA).⁵ Therefore, it must have been the intent of Congress that the Commission had to have a compelling interest⁶ before it applied the regulations modified by Congress to religious applicants. The Commission did not have a compelling interest. It had just completed a formal rule making that found the placement of LPFM stations on 3rd adjacent channels in the public interest. However, the Commission applied the regulations modified by Congress to religious organizations.

10. The Commission should consider if any of the actions described in paragraphs 6 through 9 have thwarted the public interest and have ruined the ability of applicants to construct LPFM stations or to construct them in a timely fashion. If the Commission so finds, provisions need to be made for priorities to be given, in a prompt future window, to all 3rd adjacent applicants whose applications have been dismissed and to restore channels

³ Comments of JT Communications In the Matter of MITRE Report on 3rd Adjacent Measurements for LPFM, Consolidated Interference Report, undated, on EFCS, last page, footnote 2.

⁴ The Public Notice in this proceeding (DA 03-2277; July 11, 2003) provides the following citation: *D.C. Appropriations -- FY 2001*, Pub. L. No. 106-553, paragraph 632, 114 Stat. 2762, 2762A-111 (2000).

⁵ 42 U.S. Code 2000bb.

⁶ This is the standard placed by RFRA on federal agencies.

for LPFM usage that in the interim have been reserved for use in other radio services.

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